

JUDGE GENEROSO V. MIRASOL, COMPLAINANT-PETITIONER, VS. JOSE O. DE LA TORRE, JR., RESPONDENT.

Adm. Matter No. P-88-238. April 08, 1991

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PER CURIAM:

This administrative matter refers to the charges of gross misconduct and falsification of official document brought by complainant Judge Generoso V. Mirasol of the Municipal Trial Court of Pio Duran, Albay against his Clerk of Court, Jose de la Torre, Jr.

On July 28, 1988, the complainant Judge filed a letter-complaint,[1] entitled "Report," with the Court Administrator seeking the dismissal of the respondent from the service based on the following grounds:

- 1) That the respondent had caused the release of the accused in Criminal Case No. 1351 entitled *People vs. Aquino Nares* (for Homicide) without an approved Bail Bond and with the use of a falsified Order of Release;
- 2) That in violation of office rules and regulations, the respondent had brought out court records to his house; and
- 3) That the respondent had extorted money from some parties in cases pending in court in exchange for an action in their favor.

The respondent Clerk of Court filed his Answer one year later, or on December 29, 1989, after this Court ordered him to show cause why he should not be disciplinarily dealt with or held in contempt for failure to comply with its previous resolution dated September 28, 1988, ordering him to answer the administrative complaint filed by the petitioner.[2] In his belated Answer, the respondent alleged that the petitioner's complaint has no basis in fact or in law.

In a resolution of the Court En Banc dated June 7, 1990, the case was referred to Executive Judge Rafael Santelices, Regional Trial Court, Ligao, Albay for investigation, report, and recommendation. The latter set the case for investigation on August 8, 1990. But the investigation was postponed several times at the instance of the respondent. The investigation finally took off on October 27, 1990, with Judge Jose S. Sañez as the Investigating Judge, replacing Judge Santelices who was appointed Presiding Judge of Branch 2 of the Regional Trial Court of Legazpi City.

During the investigation, the complainant manifested that he was not pursuing his charge of extortion because of the difficulty in securing witnesses. He, however, presented evidence to substantiate the two other grounds, namely: (1) that of falsifying a court order on the basis of which, the accused in Criminal Case No. 1351 was released; and (2) that of bringing court records out of the court room in violation of his (Judge Mirasol's) office memorandum.

The factual background of this case, as found by the Investigating Judge and substantiated by evidence, is as follows:

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x x x [u]pon complaint of the mother of the victim in Criminal Case No. 1351 for Homicide entitled PEOPLE vs. AQUINO NARES who it appeared was discharged from his detention, he [Judge Generoso V. Mirasol] ordered the physical inventory of all his active cases. As far as he could recall he did not remember approving any bail for the accused in this case nor had he signed an order directing the release of the accused from his detention. When he asked for the records of this case, the same was (sic) not immediately produced by the respondent who is the records custodian being the clerk of court of his court. x x x

When eventually the records (of Criminal Case No. 1351) was (sic) produced and he went over it (sic), he discovered in the records of said criminal case that there was a bail bond bearing only the signatures of the accused and the latter's alleged bondsmen (Exh. A to A-5) and the original copy (of) an Order dated June 22, 1987, with his name typed on the usual right hand side below the body and underneath it an initial of the respondent and on the left hand side the handwritten name or signature of the accused Aquino Nares, approving the bail and ordering the accused's release from his detention (Exh. "D"). When later he [Judge Mirasol] went to the office of the Station Commander to verify on what basis was the accused Aquino Nares released, he discovered that Nares was released pursuant to a duplicate or carbon original of the Order dated June 22, 1987 (Exh. "E"), stamped "Original Signed" above his typewritten name and underneath his name the initials of the respondent [Exh. "E-1") which duplicate original was given to him by the police. Accordingly, he requested for a certification from the police the entry in the blotter dated June 22, 1987, recording the reason for the release of the accused (Exh. "C") which Entry No. 332 reads as follows:

For record purposes: Aquino Nares y Losañes, accused in CC NO. 1351 for Homicide in the MTC, Pioduran, Albay, was released from detention by virtue of an order of release signed by Hon. Generoso V. Mirasol, presiding Judge MTC, Pioduran, Albay, dated June 22, 1987." (Exh. "C-1").

x x x In his report to the Court Administrator dated July 28, 1988 he [Judge Mirasol] attached the xerox copies of the unfilled bail bond and the original copy of the order together with the duplicate or carbon original of the same order given by the police (Supreme Court Record, pp. 3 to 6). A month after, he discovered that the bail bond was already filled up this time showing that the bail bond was approved by the OIC Mayor Constantino del Mundo. Similarly, he also discovered that the original copy of the Order dated June 22, 1987, now bore the signature of said OIC del Mundo who signed it for and in his (Judge Mirasol's) absence. So he (Judge Mirasol) had the tampered bail bond and original order again xeroxed and together with the certification he had previously requested from the police and sent these to the Court Administrator attached to his letter dated November 19, 1989 (Supreme Court Record, pp. 12-15).

As borne (sic) by the records of Criminal Case No. 1351 which consist only of 150 pages, the complainant Judge eventually dismissed the case because the offended party failed to prosecute the same with the latter's continued failure to appear in the case. x x x

2. On the Charge of Bringing Home Court Records:

In connection with this charge, petitioner [complainant Judge Mirasol] declared that he has both oral (sic) and written memorandum [sic] (Exh. F) to all court personnels [sic] against the bringing home of court records. Despite this, the respondent took home the records of Criminal Case No. 1339 entitled PEOPLE vs. CHARLIE OSTRIN for Theft. This was discovered on March 2, 1990 on the day that the accused was to be arraigned. The accused in said criminal case as well as the opposing counsels in said case had to wait till almost 11:00 o'clock in the morning for the accused's arraignment because the records of said case was [sic] not in the court. Only after, Rodolfo Belbes, the court process server, was ordered by the Judge to get the records at respondent's house was the arraignment conducted.[3] x x x

With regard to the first charge, the respondent denied any participation in the preparation of the bailbond, except

suggesting to the principal and his bondsmen to affix their signatures thereon even prior to completion. He further alleged that in so far as the Order was concerned, his only participation was to prepare and type the same, after which he affixed his initials and stamped the carbon copies of the "Order" with "Original Signed."

The respondent likewise denied bringing home the records of Criminal Case No. 1339. He testified that it was his sister-in-law, Joseline Caballas, the court stenographer, who took the same to his (respondent's) house for the purpose of seeking his assistance in sending the next notices and subpoenas to the parties in the said case. Believing the records to be in safe hands and after the complainant Judge announced that the hearing in Criminal Case No. 1339 had been postponed, Joseline Caballas allegedly left the records with him, until they were picked up the following day by the court's process server when the hearing proceeded anyway.

In his twelve-page Report dated December 21, 1990, the Investigating Judge found the respondent guilty as charged and recommended his dismissal from the service. Thus:

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From the evidence submitted by the parties during the investigation, the undersigned investigator finds strong and clear evidence that indeed as charged by Judge Generoso V. Mirasol, Jr., his Clerk of Court, the respondent Jose dela Torre, Jr. falsified the Order dated June 22, 1987. That as a result and on the basis of said falsified order the accused, Aquino Nares in Criminal Case No. 1351 who was charged with Homicide, was eventually released from his detention. Further, there is evidence to show that in order to cover his misdeeds after its discovery, the respondent tampered the records by making it appear that both the bail bond and the release order were approved and signed by the then OIC Mayor Constantino del Mundo.

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x x x And with respect to the second ground, there is the testimony of both Rodolfo Belbes and Joseline Caballas that it was the latter who took the records of Criminal Case No. 1339 to respondent's house because the then Staff Assistant wanted the assistance or help of the respondent in the sending of the notices. However, when it is considered that Miss Caballas is the respondent's sister-in-law, Rodolfo Belbes is a boarder in the respondent's house and the similarly flimsiest of reason given why the records of Criminal Case No. 1339 was [sic] taken to the respondent's house on March 1, 1990, namely, that the Staff Assistant who had been 3 or 4 years ahead in the judiciary than Caballas wanted allegedly the help of the respondent in the sending of notices and subpoenas on the next hearing of said case, one is tempted to ignore such explanation. x x x

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x x x [t]his investigator suddenly finds himself helpless, in view of the result of his investigation and the gravity of the charge, to recommend a disciplinary action less than or short of what the complainant had prayed for in his complaint if the judiciary is to continue to have the trust, respect and faith of the public.[4]

We are in full accord with the finding of the Investigating Judge that the evidence of guilt against the respondent is clear and strong. The herein respondent has committed not only one, but several acts constituting grounds for disciplinary action provided for in Sec. 36 (b) of P.D. 807, known as the "Civil Service Decree of the Philippines," to wit[5]:

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(b) The following shall be grounds for disciplinary action:

(1) Dishonesty;

x x x

(4) Misconduct;

x x x

(12) Violation of existing x x x; reasonable office regulations;

(13) Falsification of official document;

x x x

(25) Insubordination;

x x x

(27) Conduct prejudicial to the best interest of the service.

These same grounds are reproduced in Section 46(b), Chapter I, Subtitle A, Title I, Book V of Executive Order No. 292, or the "Administrative Code of 1987." [6]

The respondent clerk of court is guilty of dishonesty, gross misconduct, and falsification of official documents when he caused to appear that the complainant Judge had approved the bailbond, and ordered the release of the accused in Criminal Case No. 1351, entitled, "People v. A. Nares," when in fact said Judge did not, as borne out by the records of the case. When the respondent's unlawful and dishonest acts were discovered by the complainant Judge, he committed another falsification by accomplishing another bailbond and preparing another release order signed by then OIC Mayor Constantino del Mundo, purporting approval in the absence of complainant judge. To all legal intents and purposes, the respondent Clerk of Court usurped the functions of the Judge and when found out he tried to cover it up thus aggravating it with another crime.

Likewise, the respondent violated existing reasonable office regulations issued by the complainant Judge ordering him and the other court personnel not to bring to their homes court records. Despite the said order, the records of Criminal Case No. 1339 were found in respondent's house on the day of the hearing of the case. He posits the lame excuse that the Staff Assistant needed his help in preparing the notices and subpoenas to the parties in the case.

Court records are confidential documents. They must not be taken out of the court without proper authority and without the necessary safeguards to ensure their confidentiality and integrity. No such authority and safeguards were shown to obtain in the present case. Rather, there is an office memorandum expressly prohibiting it.

We find the reported acts and gross misconduct of the respondent clerk of court sufficiently and satisfactorily proven by incontrovertible evidence submitted by the complainant and now on record. These acts and gross misconduct destroy the good image of the Judiciary. We can not countenance them and neither do we allow the perpetrators, like the respondent herein, to remain in office one minute longer.

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Those who are involved in the administration of justice from the highest to the lowest level must live up to the strictest standard of honesty and integrity in the public service. x x x

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x x x [T]hose who cannot live up to this criterion should get out of the government service. It is as simple as that. [7]

WHEREFORE, premises considered, respondent clerk of court, Jose de la Torre, Jr., is hereby DISMISSED from the service with forfeiture of his retirement benefits, if any, and with prejudice to his reinstatement in government

service, including government-owned or-controlled corporations.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

[1] Rollo, 1.

[2] Id., 10.

[3] Report and Recommendation addressed to the Clerk of Court, Second Division, dated December 21, 1990. Honorable Jose S. Sañez, RTC (Ligao, Albay, Branch 13), Acting Executive Judge, 3-4.

[4] Supra, note 3 at 7, 11-12.

[5] October 6, 1975.

[6] Exec. Order No. 292 (1987), 83 O.G. 94, 95 (September 1987).

[7] Mejia v. Pamaran, Nos. 56741-42, April 15, 1988, 160 SCRA 477.

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